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BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER SPISICH, GEORGE D	
			ART UNIT	PAPER NUMBER
			3616	
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, line 2 is unclear. The phrase "welded jointed" is unclear.

Claim 6, line 2 is unclear. There is claimed "the bulkhead" (which is singular). This is unclear in that a plurality of bulkheads is claimed in claim one and it is unclear to reduce this element to a single element by using the term "the".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP2001-253218 (provided in Applicant's IDS and relating to USPN 6,494,472).

JP '218 discloses a suspension cross member attached to the underside of a vehicle body in such a manner to extend in a transverse direction of a vehicle comprising upper (8) and lower (9) plates which are disconnect from each other in the vicinity of bifurcation proximal end portions at ends of the suspension cross member where the suspension cross member extends to be bifurcated into a forward portion located on a longitudinally forward side of the suspension cross member and a rearward portion located on a longitudinally rearward side of the suspension cross member to define openings and which are jointed together along "circumferential" edges thereof to thereby have a "closed cross section".

JP '218 discloses support points (12) for forward arms of a pair of lower arms that support wheels, the support points disposed on the forward portions of the upper and lower member plates at external positions to the "closed cross section", respectively. There are support points (near 8G, 9G) for rearward arms of the pair of lower arms which are inserted through openings, the support points disposed on the rear portions at internal positions of the "closed cross section" respectively. There are bulkheads (11) provided between the upper and lower member plates transversely inwardly of the support points for the rearward arms in such a manner that a "circumferential" edge of each of the bulkheads of each of the bulkheads extends longitudinally to a rear of the vehicle from a disconnection initiating point located on a forward side of the opening along inner sides of the upper and lower plate members so as to be welded to the upper and lower plate member. The bulkheads are welded to the upper and lower member plates at least in the vicinity of the disconnection initiating

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point. As presently claimed, the bulkheads are not positively claimed to be welded to the upper and lower plates by the phrase "so as to be welded. Furthermore, each bulkhead is not claimed to be welded to both the upper and lower plate. The cross member of JP '218 discloses the bulkheads can be welded to either the upper and lower and therefore, JP '218 would allow for one bulkhead to be welded to the lower plate and the other bulkhead to be welded to the upper plate and meet the limitations of the amended claim 1.

The opening dimensions of the opening increase "gradually" in the vicinity of the disconnection initiating point. The term "gradually" is a relative term that can be met by any opening.

JP '218 discloses a bulkhead having a "rear" end welded to an inner surface of a "rear" wall of the upper and lower member plates in at least as there are welds to both bulkheads are able to be welded to opposite plate.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-253218 (provided in Applicant's IDS).

JP '218 has been discussed in the prior rejection. Although JP '218 discloses bulkheads (11) with "circumferential" flanges (11B and 11C) provided along the "circumferential" edge of the bulkhead, and it may be interpreted that since the flanges "extend" along the length of bulkhead (11) as the bulkhead extends toward the opening, then it may be interpreted that the flanges extend toward the opening, to more clearly address this language Examiner is maintaining that the reversal of the position of the bulkhead would be obvious.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the position of the bulkhead such that the flanges more specifically extends towards the opening, since it has been held that a mere reversal of essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Allowable Subject Matter***

Claim 7 is allowed.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art does not disclose the suspension member as claimed further having a support member jointed to the bulkheads and extending in a longitudinal direction towards the front of the vehicle.

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Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The language of claim 5 which claims each bulkhead is welded (positively claimed) to the upper and lower member plates (each bulkhead is welded to both plates) is language necessary to make claim 1 allowable.

### ***Response to Arguments***

With respect to Applicant's argument that the bulkhead of JP '218 is not welded to the upper and lower plate members, Examiner disagrees and maintains the rejection. The language of claim 1 as discussed above which is "so as to be welded" is not considered to be positively claiming a welded connection. Furthermore, the language of claim 1 does not require each bulkhead to be welded to both the upper and lower member plates, therefore, the JP '218 reference meets claim 1 when the bulkheads may be welded one to the upper plate and the other to the lower plate.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich  
January 7, 2006



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